

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Robert Bryan	Team: Squad #13	CCRB Case #: 201904223	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/09/2019 3:00 AM	Location of Incident: Q-Train at 96th Street subway station	Precinct: 23	18 Mo. SOL 11/9/2020	EO SOL 6/26/2021	
Date/Time CV Reported Thu, 05/09/2019 3:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/16/2019 10:50 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Alen Mariano	29304	944116	TB DT04

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Huanxin Chen	28277	957451	TB DT04
2. POM Amaury Baez	15579	957348	TB DT04

Officer(s)	Allegation	Investigator Recommendation
A.POM Alen Mariano	Abuse: Police Officer Alen Mariano threatened § 87(2)(b) with the use of force.	
B.POM Alen Mariano	Force: Police Officer Alen Mariano used physical force against § 87(2)(b)	
C.POM Alen Mariano	Abuse: Police Officer Alen Mariano refused to provide his name to § 87(2)(b)	
D.POM Alen Mariano	Discourtesy: Police Officer Alen Mariano spoke discourteously to § 87(2)(b)	

### Case Summary

On May 9, 2019, § 87(2)(b) called IAB via 911 and filed this complaint, which was received at the CCRB on May 16, 2019.

At approximately 3:00 a.m. on May 9, 2019, § 87(2)(b) was sitting in a Q-train subway car that was stopped at the 96<sup>th</sup> Street subway station in Manhattan, when he was approached by Police Officer Amaury Baez and Police Officer Huaxin Chen, both of Transit District 4 and identified via investigation, who asked if he was okay. He said that he was, and as the officers were walking away, Police Officer Alen Mariano of Transit District 4 came onto the train and told § 87(2)(b) to get out or he would throw him out (**Allegation A – Abuse of Authority – Threat of Force; § 87(2)(g)**). When § 87(2)(b) refused, PO Mariano grabbed him by the front of his shirt and pulled him up (**Allegation B – Force – Physical Force; § 87(2)(g)**). § 87(2)(b) left the subway car on his own and walked up the stairs from the platform. As he walked up the stairs, he asked PO Mariano for his name, but PO Mariano responded with some variation of "John Doe. Go fuck yourself." (**Allegation C – Abuse of Authority – Refusal to Provide Name; § 87(2)(g)**) (**Allegation D – Discourtesy – Word; § 87(2)(g)**).

BWC footage from PO Chen is attached to IA #45 (**Board Review 01**) and summarized in IA #49 (**Board Review 02**). PO Baez's BWC footage did not capture any part of this incident. PO Chen's BWC footage captures § 87(2)(b)'s interaction with PO Chen, but does not capture § 87(2)(b)'s interaction with PO Mariano, nor the point in time that the FADO allegations are alleged to have occurred.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Alen Mariano threatened § 87(2)(b) with the use of force.**

**Allegation (B) Force: Police Officer Alen Mariano used physical force against § 87(2)(b).**

**Allegation (C) Abuse of Authority: Police Officer Alen Mariano refused to provide his name to § 87(2)(b).**

**Allegation (D) Discourtesy: Police Officer Alen Mariano spoke discourteously to § 87(2)(b).**

In PO Chen's BWC footage, beginning at the 01:05 timestamp, visible at the bottom of the media player screen, PO Chen approaches § 87(2)(b) who is sitting on a stopped Q train and appears to be asleep (**Board Review 01**). PO Chen asks him, "How are you doing sir? You okay?" § 87(2)(b) nods, and PO Chen says, "Try to stay awake, okay?" PO Chen turns around and walks in the opposite direction, towards PO Baez. No video evidence of § 87(2)(b)'s subsequent interaction with PO Mariano exists.

§ 87(2)(b) said he was sitting in the subway car waiting for it to head back downtown (**Board Review 03**), when PO Mariano, identified via investigation, walked up to § 87(2)(b) and told him, "You got to get out." § 87(2)(b) Rahli responded, "Why? I'm going back downtown." PO Mariano said, "You don't want to get out? I'll make you get out." He told § 87(2)(b) to get out of the subway car three or four times, then put on a pair of plastic gloves, grabbed § 87(2)(b) by the front of § 87(2)(b)'s shirt with his right hand, and pulled § 87(2)(b) up. § 87(2)(b) said, "Okay, I'm getting out," at which point PO Mariano let go of him. As § 87(2)(b) was walking up the stairs, he asked PO Mariano for his name. PO Mariano was walking below him on the platform, and responded with either, "John Doe motherfucker" or, "John Doe. Go fuck yourself."

PO Mariano stated that he and his partner, Police Officer Jenny Reyes of Transit District 4, were

working as Neighborhood Coordination Officers at the 96th Street Q subway station that night, and that PO Baez and PO Chen were also present (**Board Review 04**). PO Mariano denied being involved in or present for § 87(2)(b) being removed from a subway car or told to leave the station. PO Mariano, a dark-skinned Hispanic male who could reasonably be mistaken for black, did not know of any black male officers working at the incident location that night, and he could not recall if he saw any intoxicated people on the subway that night. However, the investigation identified PO Mariano as the subject officer in this case (**Board Review 09**).

PO Chen stated that he PO Baez were working together waking sleeping passengers at the time of this incident, and that PO Mariano, and PO Reyes were also present, but that he did not know if PO Mariano removed § 87(2)(b) from the train (**Board Review 05**). PO Chen acknowledged seeing an officer escort a passenger off a subway car, but denied the passenger was § 87(2)(b) upon viewing § 87(2)(b) on his BWC footage during his CCRB interview. PO Baez did not recall this incident or if he saw PO Mariano that night. (**Board Review 06**). PO Reyes, the only other confirmed officer near the subway car that night, is a woman.

§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party.
- PO Mariano has been a member of service for 13 years and has been the subject of eight allegations in five previous cases, none of which were substantiated. § 87(2)(g)

#### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) has not filed a Notice of Claim with the New York City Comptroller's Office regarding this incident (**Board Review 08**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 07**).

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Squad 13

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date

CCRB Case # 201904223